

Message Text

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71

ACTION ARA-20

INFO OCT-01 ISO-00 DRC-01 FEA-02 AGR-20 CEA-02 CIAE-00

COME-00 DODE-00 EB-11 FRB-03 H-03 INR-11 INT-08 L-03

LAB-06 NSAE-00 NSC-07 PA-04 RSC-01 AID-20 CIEP-02

SS-20 STR-08 TAR-02 TRSE-00 USIA-15 PRS-01 SP-03

OMB-01 SWF-02 /177 W

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R 152032Z JUL 74

FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 9402

INFO AMEMBASSY BOGOTA

AMEMBASSY CARACAS

AMEMBASSY LA PAZ

AMEMBASSY LIMA

AMEMBASSY MONTEVIDEO

AMEMBASSY QUITO

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E.O.11652:N/A

TAGS: EGEN EFIN CI

SUBJ: CHILEAN FOREIGN INVESTMENT STATUTE

1. SUMMARY: LONG-AWAITED FOREIGN INVESTMENT STATUTE PUBLISHED JULY 13 AUTHORIZES NEW COMMITTEE FOR FOREIGN INVESTMENTS TO STIPULATE ALL REGULATIONS GOVERNMENT NEW FOREIGN INVESTMENT IN CHILE BY MEANS OF SEPARATE CONTRACTS WITH EACH FOREIGN INVESTOR. REGULATIONS MAY NOT DISCRIMINATE AGAINST FOREIGN INVESTMENT VIS A VIS NATIONAL INVESTMENT. FOREIGN INVESTMENT IN NATURAL RESOURCE DEVELOPMENT MAY RECEIVE GUARANTEE THAT FRANCHISE AND TAX STIPULATIONS WILL NOT BE MODIFIED. FOREIGN INVESTMENT WISHING TO TAKE ADVANTAGE OF LAFTA AND ANCOM MUST COMPLY WITH ALL RULES OF SUCH ENTITIES WHICH ARE "VALIDLY OBLIGATORY" IN CHILE. EXISTING FOREIGN INVESTMENT MAY PETITION TRANSFER TO THIS STATUTE BEFORE JULY 12, 1975. END SUMMARY.

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2. LONG-AWAITED CHILEAN FOREIGN INVESTMENT STATUTE PUBLISHED
IN JULY 13 DIARIO OFICIAL AS DECREE LAW 600. MAJOR POINTS
AS FOLLOWS:

A. ALL NEW FOREIGN INVESTMENTS IN CHILE WILL BE AUTHORIZED
BY CONTRACT BETWEEN INVESTOR AND NEWLY CREATED COMMITTEE FOR
FOREIGN INVESTMENT (CFI). CONTRACTS WILL NORMALLY HAVE TEN-YEAR
LIFE SPAN, BUT CFI CAN GRANT TWENTY-YEAR CONTRACTS AND BEYOND
IF JUSTIFIED.

B. CONTRACT WILL STIPULATE EXCHANGE RATES, REPATRIATION,
TAX AND OTHER RULES APPLYING TO EACH INVESTMENT. IN NO CASE
WILL SUCH RULES DISCRIMINATE AGAINST FOREIGN INVESTMENT AS COMPARED
WITH TREATMENT OF NATIONAL INVESTMENT. SHOULD FOREIGN INVESTORS
BELIEVE THEY ARE BEING DISCRIMINATED AGAINST, THEY CAN APPEAL, AND,
IF ACCEPTED BY GOC, BE COMPENSATED FOR DAMAGES.

C. FOREIGN INVESTMENTS IN NATURAL RESOURCE DEVELOPMENT
SUCH AS MINING, AGRICULTURE, FORESTRY, FISHING, AND SEABED, MAY
RECEIVE GUARANTEE THAT INVESTMENT CONTRACT TERMS REGARDING FRANCHISES
AND TAXES WILL NOT BE MODIFIED.

D. FOREIGN INVESTMENT IN EXISTING NATIONAL ENTERPRISES MAY
BE AUTHORIZED BY CFI IF IN NATIONAL INTEREST AND IF IT DOES NOT
EXCEED 20 PERCENT OF EXISTING ENTERPRISE'S CAPITAL AND RESERVES.
FOREIGN ACQUISITION OF MORE THAN 20 PERCENT OF EXISTING ENTERPRISE
MAY BE AUTHORIZED IN SPECIFIC CASES.

E. FOREIGN INVESTMENT WISHING TO TAKE ADVANTAGE OF SPECIAL
CHILEAN LAWS DESIGNED TO PROMOTE REGIONAL OR SECTORAL DEVELOPMENT
IN CHILE WILL BE SUBJECT TO SUCH LAWS RATHER THAN TO THIS STATUTE.

F. (ARTICLE 19) "IN ORDER TO ENJOY THE BENEFITS DERIVING
FROM THE WIDER MARKETS AND THE FREE TRADE PROGRAMS OF THE LATIN
AMERICAN FREE TRADE ASSOCIATION AND THE CARTAGENA AGREEMENT,
ENTERPRISES WITH FOREIGN INVESTMENT MUST COMPLY WITH THE
DISPOSITION OF THE STATUTE AND WITH THE RESOLUTIONS AND
DECISIONS WHICH ARE VALIDLY OBLIGATORY IN CHILE AND WHICH
EMANATE FROM SAID INTERNATIONAL COMMITMENTS".

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G. FOREIGN CREDITS FOR AND TOTAL FOREIGN INDEBTEDNESS
OF FIRMS WITH FOREIGN INVESTMENT WILL BE ESTABLISHED BY CENTRAL
BANK. TERMS OF ACCESS TO NATIONAL CREDITS WILL BE SET BY
COMPETENT AUTHORITY AFTER CONSIDERING CFI'S OPINION. COMPETENT
GOC ORGANISMS CAN GUARANTEE FOREIGN CREDITS TO MIXED ENTER-
PRISES UP TO PERCENTAGE OF NATIONAL OWNERSHIP IN SUCH ENTERPRISES.
IF GOC IS THE NATIONAL OWNER IN A MIXED ENTERPRISE, TOTAL FOREIGN
CREDIT OPERATION MAY BE GUARANTEED.

H. CFI COMPOSED OF MINISTERS OF ECONOMY, FINANCE, FOREIGN RELATIONS, MINISTER OF SECTOR IN WHICH FOREIGN INVESTMENT TO BE MADE, DIRECTOR OF NATIONAL PLNNING OFFICE (ODEPLAN), EXEC VP OF DEVELOPMENT CORPORATION (CORFO), PRESIDENT OF CENTRAL BANK, AND PRESIDENT OF CONFEDERATION OF PRODUCTION AND COMMERCE (PRIVATE SECTOR REPRESENTATIVE). CFI TO BE STAFFED BY EXECUTIVE SECRETARIAT PROVIDED BY CORFO.

I. FOREIGN INVESTORS MAY APPEAL NON-COMPLIANCE WITH OR DAMAGING MODIFICATIONS TO CONTRACTS TO THE CFI ANDN, IF NECESSARY, TO NEW TRIBUANL COMPOSED OF MINISTER OF SUPREME COURT AND TWO MINISTERS OF SANTIAGO COURT OF APPEALS. PROVEN DAMAGES WILL BE COMPENSATED. NON-COMPLIANCE WTIHT CONTRACTUAL OBLIGATIONS BY FOREIGN INVESTORS WILL BE SANCTIONED BY IMPRISONMENT IN MEDIUM OR MINOR GRADE ("PRISION EN SU GRADO MEDIO O PRESIDIO MENOR EN CUALQUIERA DE SUS GRADOS") AND BY FINES EQUAL TO TWICE THE PECUNIARY AMOUNT INVOLVED IN INFRACTION. FOREIGN INVESTMENT ALREADY IN CHILE WILL CONTINUE

TO BE REGULATED BY TERMS OF ITS ORIGINAL ENTRY, BUT MAY PETITION TRANSFER TO PRESENT STATUTE BEFORE JULY 12, 1975.

3. COMMENT FOLLOWS SEPTEL.
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